

**UTAH DEPARTMENT OF HEALTH  
INTERNET SOFTWARE LICENSE AGREEMENT**

XXXXXXXX

Department Log Number

This Internet software license agreement (AGREEMENT) is entered into between the Utah Department of Health (DEPARTMENT) and \_\_\_\_\_, State of \_\_\_\_\_ (LICENSEE), whereby the Department grants to the Licensee a right to use certain Internet software subject to the terms and conditions of this Agreement.

**I. Definitions**

- A. Certain Internet Software** means the Maternal and Child Health Information Internet-query module, “the MatCHIIM application,” and other Internet applications that are built upon the MatCHIIM application’s computer programs.
- B. The Licensee Original Work** means any interactive Internet query system that is developed by the Licensee that differs in concept, approach and functionality from the MatCHIIM application, and that is neither an Update or Modification as defined herein, nor a Derivative Work as defined by the U.S. Copyright Act.
- C. Modification** means a change to the product being granted to the Licensee which is made by or for the Licensee, whether or not implemented or expressed in any other medium by the Licensee.
- D. Update** means any change to the product being granted to the Licensee that is made and issued by the Department and which reflects new product knowledge or improves product efficiency.
- E. The Grant** means the grant (5H16 MC00039) awarded to the Department for developing the MatCHIIM application by the Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**II. Permissions**

**A. Subject Matter**

The Department agrees to grant the Licensee the following:

- (1) the MatCHIIM application software
- (2) Internet query systems based on the Vital Records, hospital inpatient discharge data, and population estimate files in the Department.

## **B. Duration**

The duration of the license and this Agreement shall be from January 1, 2000 through January 1, 2003, unless terminated or extended by Agreement in accordance with the terms and conditions of this Agreement.

## **C. Scope**

The Licensee may use the MatCHIIM application to release its information and may modify the system according to the Licensee's needs.

## **D. Redistribution**

The Licensee may redistribute the MatCHIIM application to any not-for-profit organization. The Licensee shall notify the Department about any redistribution and shall not make any profit from the redistribution. The Department requires that the Licensee and the third party sign a redistribution agreement consistent with the terms and conditions of this Agreement. The Licensee shall give the Department a copy of the redistribution agreement.

## **III. Copyright**

The Licensee shall prominently place the HRSA, MCHB, and the Department's copyrights and names upon all of the Licensee's interactive query home pages along with the Licensee's copyright information. This shall apply for any redistributed system.

This Licensee shall follow the MatCHIIM Grant's policy required by HHS under the following:

*If any copyrightable material (e.g., audiovisuals, software, publications, curricula and training materials, etc.) is developed under this grant (by the grantee, subgrantee, or contractor) the Department of Health and Human Services (HHS) shall have a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and authorize others to use the work, for purposes which further the objectives of the Maternal and Child health (MCH) program. All contractors or other arrangements entered into by the grantee for the purpose of developing or procuring such material shall specifically reference and reserve the rights of HHS with respect to the material.*

*-- Excerpt from the Grant award letter*

The term "grantee" refers to the Utah Department of Health and any other state interested in adopting or that has adopted the MatCHIIM Project.

## **IV. Ownership**

HRSA/MCHB and the Department jointly own the MatCHIIM application that is free to interested parties.

The Department certifies that it owns other MatCHIIM application-related Internet query systems, for which developmental work was or is funded by the Department's resources. The Licensee hereby acknowledges that the Department retains all rights, title and interest in and to all MatCHIIM application-related Internet query systems, all Updates, Modifications, and Derivative Works. The Department acknowledges that it has no right, title, or interest in any of the Licensee's Original Work.

## **V. Collaboration**

The Department agrees to acknowledge the Licensee's contributions to the Updates, Modifications, and Derivative Works of MatCHIIM and its related applications if the Licensee participates in the Updates, Modifications, and Derivative Works.

If the Department is or potentially is interested in adopting any of the Licensee's original work, the Licensee agrees to discuss an exchange of that work with the Department. The Department agrees not to release any of the Licensee's source codes to any third party. The codes include but are not limited to original programs provided by the Licensee and any modified programs written by the Department.

## **VI. Indemnification**

The Licensee agrees to indemnify, defend and hold harmless the Department, its officers, agents, volunteers, and employees from and against any and all losses, damages, injuries, liabilities, suits and proceedings arising out of the Licensee's, or its officers', agents', volunteers', or employees' use or inability to use the MatCHIIM application. This clause shall survive termination of this Agreement.

## **VII. Disclaimer of Warranty**

In lieu of any express warranty, the Department provides free technical assistance to the Licensee during the term of this agreement. After the end of this agreement, the Department will only provide technical assistance to the Licensee based on the Licensee's funds or other available resources. Accordingly, the MatCHIIM application is provided on an as-is basis without warranty of any kind. This clause shall survive termination of this Agreement.

## **VIII. No Liability for Consequential Damages**

In no event shall the Department be liable for any damages whatsoever arising out of the use of or inability to use the MatCHIIM applications. This limitation of liability also applies to any updates, modifications, derivative works, and original works produced by the Licensee. This clause shall survive termination of this Agreement.

## **IX. Waiver**

The waiver by either party of any provision, term, covenant or condition of this Agreement shall not be deemed to be a waiver of any other provision, term, covenant or condition of this agreement nor any subsequent breach of the same or any other provision, term, covenant or condition of this Agreement.

**X. Separability**

The declaration by any court, or any other binding legal source, that any provision of this Agreement is illegal and void shall not affect the legality and enforceability of any other provision of this Agreement.

**XI. Modification/Renewal**

This Agreement may only be modified in a written instrument that is signed by both parties. This Agreement may be renewed by means of a written amendment signed by the parties. In the event no such amendment is executed, this Agreement shall terminate upon the last agreed termination date.

**XII. Termination**

This Agreement may be terminated with cause, by either party, in advance of the specified termination date, upon written notice being given to the other party. Cause for termination means a violation of this Agreement. This Agreement may be terminated by the Department without cause, upon thirty (30) days written notice.

**XIII. Entire Agreement**

This Agreement constitutes the complete and exclusive agreement between the parties and supersedes all prior agreements or understandings between the parties.

**IN WITNESS WHEREOF, the parties sign this Agreement.**

**Licensee:** \_\_\_\_\_

**Department:** Utah Department of Health

By: \_\_\_\_\_

NAME

TITLE

By: \_\_\_\_\_

Shari A. Watkins, C.P.A.

Director, Office of Finance

Date: \_\_\_\_\_

Date: \_\_\_\_\_